
HOUSE BILL No. 1436

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-45-10-5.

Synopsis: Stalking. Specifies that stalking is a Class C felony instead of a Class D felony if a no contact order has been issued by the court to protect the same victim from the person who committed the offense.

Effective: July 1, 2001.

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January 11, 2001, read first time and referred to Committee on Courts and Criminal Code.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1436

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-45-10-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) A person who
3 stalks another person commits stalking, a Class D felony.

4 (b) The offense is a Class C felony if at least one (1) of the
5 following applies:

6 (1) A person:

7 (A) stalks a victim; and

8 (B) makes an explicit or an implicit threat with the intent to
9 place the victim in reasonable fear of:

10 (i) sexual battery (as defined in IC 35-42-4-8);

11 (ii) serious bodily injury; or

12 (iii) death.

13 (2) A protective order, **a no contact order**, or other judicial order
14 under any of the following statutes has been issued by the court
15 to protect the same victim or victims from the person and the
16 person has been given actual notice of the order:

17 (A) IC 31-15, IC 31-16, IC 31-17, or IC 31-1-11.5 before its

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1 repeal (dissolution of marriage, legal separation, child support,
2 and child custody).

3 (B) IC 31-34, IC 31-37, or IC 31-6-4 before its repeal
4 (delinquent children and children in need of services).

5 (C) IC 31-32 or IC 31-6-7 before its repeal (procedure in
6 juvenile court).

7 (D) IC 34-26-2 or IC 34-4-5.1 before its repeal (protective
8 order to prevent abuse).

9 (3) A criminal complaint of stalking that concerns an act by the
10 person against the same victim or victims is pending in a court
11 and the person has been given actual notice of the complaint.

12 (c) The offense is a Class B felony if:

13 (1) the act or acts were committed while the person was armed
14 with a deadly weapon; or

15 (2) the person has an unrelated conviction for an offense under
16 this section against the same victim or victims.

17 (d) Notwithstanding subsection (a), the court may enter judgment
18 of conviction of a Class A misdemeanor and sentence accordingly if
19 the court finds mitigating circumstances. The court may consider the
20 mitigating circumstances in IC 35-38-1-7.1(C) in making a
21 determination under this subsection. However, the criteria listed in
22 IC 35-38-1-7.1(C) do not limit the matters the court may consider in
23 making its determination.

24 (e) Notwithstanding subsection (b), the court may enter judgment
25 of conviction of a Class D felony and sentence accordingly if the court
26 finds mitigating circumstances. The court may consider the mitigating
27 circumstances in IC 35-38-1-7.1(C) in making a determination under
28 this subsection. However, the criteria listed in IC 35-38-1-7.1(C) do not
29 limit the matters the court may consider in making its determination.

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